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REMARKS

Claim 1 has been amended distinctly pointing out a tool-carrying device with armors on all the corners, with the armors matching the shape of the recesses in the tool-carrying device with the armors inserted into the recesses in the corners of the blown plastic of the tool-carrying device, and with the armors being screwed into the blown plastic and being flush with the surface of the tool-carrying device.

Sykes does not show single-piece armors or a perpendicular relationship of recesses and the corresponding portions of the armors. Sykes also does not show screws flush with the armors and receivable in countersink holes of the armors.

Garcia does not show a perpendicular relationship of recesses and the corresponding portions of the armors. Garcia also does not show armors flush with the surface of the tool-carrying device.

Burghardt does not show a triangular portion of the armors. Burghardt also does not show three portions of the armors, with two of these portions affixed with screws to the tool-carrying device.

The admitted prior art does not show a perpendicular relationship of recesses and the corresponding portions of the armors. In addition, the admitted prior art does not have armors flush with the surface of the tool-carrying device.

It should be appreciated that the reasons provided by the Examiner to show that the alleged modifications to Sykes and/or the admitted prior art are based upon the hindsight knowledge of the present invention for the sole basis of attempting to meet the recitation of the claims. It is only after the present disclosure is known would one think to combine the certain aspects selected from the Sykes, Burghardt and Garcia references and/or the admitted prior art. It is then submitted that such combination is improper because it requires considerable application of hindsight, hindsight that is gained only through applicant's disclosure. Specifically, the CAFC in Ecolchem, Inc. v. Southern California Edison Co., 227 F.3d 1361, 56 USPQ2d 1065 (2000) stated:

Our case law makes clear that the best defense against hindsight-based obviousness analysis is the rigorous application of the requirement for a showing of a teaching or motivation to combine the prior art references. See Dembiczak, 175 F.3d at 999, 50 USPQ2d at 1617. "Combining prior art references without evidence of such a

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suggestion, teaching or motivation simply takes the inventor's disclosure as a blueprint for piecing together the prior art to defeat patentability -- the essence of hindsight." Id.

In this case, the district court used the '411 patent as a blueprint, with the Houghton process as the main structural diagram, and looked to other prior art for the elements present in the patent but missing from the Houghton process. The district court opinion does not discuss any specific evidence of motivation to combine, but only makes conclusory statements. "Broad conclusory statements regarding the teaching of multiple references, standing alone, are not 'evidence'". Dembiczak, 175 F.3d at 999, 50 USPQ2d at 1617.

The absence of a convincing discussion of the specific sources of the motivation to combine the prior art references, particularly in light of the strength of prior art teaching away from the use of the Houghton process, is a critical omission in the district court's obviousness analysis, which mainly discusses the ways that the multiple prior art references can be combined to read on the claimed invention.

Turning to the present application, it is respectfully submitted that the Examiner's contentions are incorrect for several reasons. The prior art references relate to a variety of subject matter: the invention in Sykes relates to luggage; the invention in Garcia relates to a trunk; the invention in Burghardt relates to a tabletop; and the admitted prior art relates to a toolbox. Sykes does not suggest that the two-piece corner and cushion could be replaced by a single-piece armor. Additionally, Sykes does not suggest that the rivet attaching the two-piece corner to the luggage could be replaced by a screw flush and receivable in a countersunk hole. Garcia does not suggest that the base plate and pyramidal cap could be replaced by an armor flush with the surface of the trunk. Burghardt does not suggest that the tabletop corner protectors could be used on an article other than furniture or a surface other than the upper surface. The admitted prior art does not suggest that the corners which stand out from the toolbox could be replaced by recessed armors flush with the surface of the toolbox. It should be appreciated that although the Examiner has set forth how the various references could be combined and has recognized the advantages achieved by the present invention and not obtained by the prior art, the Examiner has not set forth any indication where the prior art provides any teachings or suggestion that the prior art could be improved upon or would have application to other structures. Thus, it is respectfully submitted that the Examiner has not provided any discussion as to the specific sources of motivation needed to select certain features and arrange them in just

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the right way to meet the recitations of the claims, and is believed to be a critical omission for a prima facie rejection.

Accordingly, by this amendment, it is believed that the rejections under 35 U.S.C. § 102(b) and 35 U.S.C. § 103(a) should be withdrawn and claims 1 and 5 should be in condition for allowance. Further reconsideration is respectfully requested.

The Examiner has cited the United States patents listed on NOTICE OF REFERENCES CITED as B and D-F. By the lack of application of these references and others like them within the class or subclasses searched, the Examiner apparently recognizes the clear patentability of the present invention over any of these references.

Since the claims of the present application have been shown to include limitations directed to the features of the applicant's light and robust tool-carrying device which are neither shown, described, taught, nor alluded to in any of the references cited by the Examiner, whether those references are taken singly or in any combination, the Examiner is requested to allow claims 1 and 5, as amended, of the present application and to pass this application to issue.

Respectfully submitted,

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